

Hawaii International Child (HIC) has been a state licensed non-profit adoption agency in Hawaii since 1975. To date we have placed more than 3,000 children through international adoption. We work with the State of Hawaii in its Foster Care program, and are currently completing our first Council on Accreditation (COA) accreditation process. We have been a member agency of the Joint Council for International Children's Services (JCICS) for the past ten years.

In this memorandum, we are hereby **providing our support** for comments to certain risk and liability sections of the Proposed Hague Regulations - State/AR-01/98, on 22 CFR Parts 96 and 98 - as made by the JCICS and Deborah Spivack of **Reaching out Thru International Adoption**. While we support much of the content, and the attempt at improving the station of children in need, much of the current proposed regulation would make it impossible for reputable adoption agencies to continue their good work.

We strongly endorse the comments and suggestions regarding two areas in particular:

1. Insurance, Risk and Liability
2. Accrediting entities and adverse action

Subpart F - Standards for Convention Accreditation and Approval

96.33- Budget, audit, insurance and risk assessment requirements

96.33 (e) - On requiring a three-month cash reserve - HIC would be unable to meet this requirement. We have operated without deficit for the past 26 years, but have rarely had more than one month operating budget available in advance. We suggest that the comments on 96.33 (g) be considered for this issue.

96.33 (g) - On requiring a professional assessment of risks - HIC supports the suggestion that an assessment of risk be done by the agency, with assistance from agency management, financial advisors, etc. The cost and time required to conduct a professional risk assessment, in addition to the annual State licensing, the annual CPA audit, and bi-annual COA accreditation, would be prohibitive to HIC.

96.33 (h) - On requiring (professional liability) insurance of no less than \$1,000,000 per incident - HIC has been unable to secure professional liability insurance. While few carriers will consider insuring a non-profit adoption agency, those who can, require annual premiums of at least \$20,000. HIC cannot afford such premiums.

96.35 (b)(4) and (5) and (6) - On providing information regarding complaints, investigations, etc - Such a requirement places too much power in the hands of unhappy clients, and could cause undue work and time for agencies. The field of adoption is rife with emotional stress, and dissatisfaction with the process can often result, regardless of an agency's best faith effort at educating and informing a client. Client complaints are not uncommon, and regardless of merit, usually result in extensive work for the agency. HIC has experienced a number of complaints over the years, many from clients who had worked with numerous agencies in the past, and who were consistent in making

complaints after terminating services. Including every client complaint into the agency suitability requirement seems undue.

96.39(d) – On blanket waivers of responsibility – HIC would not have remained open were we unable to require clients to sign statements, acknowledging the risks involved in international adoption, and the lack of guarantee regarding the health of adopted children. Regardless of education and training, some clients may wish to believe they will be able to adopt a “perfectly healthy child”. By asking a client to sign a statement, underscoring the inherent risk, and lack of control on the part of the agency, client’s are more likely to understand the risks, and less likely to inappropriately accuse the agency of fraud or deception.

96.40 – On fees and policies – Request that agencies be allowed to give fee estimates and notes that we are unable to promise receipts for money paid by clients while they are overseas, completing their adoptions.

96.45 and 96.46 – On supervised providers – See comments provided by JCICS and Reaching out thru International Adoption - Issues: families’ choice; **reducing supervised providers and altering the adoption community; financial responsibility/insurance; proposed structure promotes litigation; foreign supervision; and excessive provisions.**

96.49 – On providing medical and social information in incoming cases – Some of the regulations as written, create a setting of “product guarantee” and commercialize children. Clients need to be aware of the reality of international adoption; including the difficulties in procuring accurate and/or adequate information on children in need.

Cherish the children.

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